

application, in the instance that such prosecution is indeed necessary, without incurring substantial fees at a later date.

A further Authorization (in duplicate) to charge Applicant's USPTO Deposit Account the appropriate Small Entity Filing Fee of \$395 for this RCE is enclosed in coordination with this Request.

Applicant respectfully requests continued examination of the above-identified, pending application in view of the following remarks herein submitted.

### **REMARKS**

Applicant has, with deference, read the assertions of the Examiner in the Office Action dated April 11, 2006, and respectfully disagrees with the interpretation of the Examiner regarding the following relevant points and, accordingly, offers detailed explanations in support of his continued-to-be-maintained position that the present invention is novel and unobvious with respect to all existing prior art, and, therefore, is deserving of patent protection. The present RCE endeavors to provide amended claims to define the scope of the protection to which Applicant believes the device of this disclosure is entitled. Physical differences do, indeed, exist between this novel device and all prior art.

The device of the present application is directed towards, but not necessarily exclusively limited to the display of substantially planar objects. It includes four primary aspects in a preferred embodiment:

- 1) capacity for providing the simultaneous viewability of a plurality of held items;
- 2) guidewalls within the holding space of the device which serve to facilitate the positioning of held items in uniform parallel relation to each other; and
- 3) grasping tension method which exerts pressure to hold items substantially without requiring the items-to-be-held to possess predetermined properties, apart from a thickness that is not too great to preclude successful insertion into the device—although even modification of the design of the device of the disclosure to accommodate the insertion of items of virtually any thickness is possible, however;
- 4) transparency for a “covering” element of the holding device, which thereby permits an essentially entirely unobscured view of a held item.

To anticipate a Claim under 35 U.S.C. § 102(b), each and every element of the claimed invention must be found in a single prior art reference. MPEP § 2131. While each of the references cited by the Examiner may contain perhaps one element of the claims of this subject application, no one prior art reference contains each and every element of the claims herein submitted. Because no prior art reference describes each and every element of the device of this disclosure, Applicant, accordingly, contends that the claims are patentable over all prior art under 35 U.S.C. § 102(b) and respectfully requests that a timely Notice of Allowance be issued in this case.

OVERVIEW OF ARGUMENTS IN SUPPORT OF CONTENTION  
THAT NEWLY AMENDED CLAIMS SHOULD BE ACCEPTED

U.S. Patent Nos. 5,473,796 to FUSILLO and 5,121,526 to BURKARD (1992) are essentially the same device(s), and the device of both patents suffers from the same deficiencies with regard to Applicant's device, being the absence of both guide walls and transparency.

U.S. Patent No. 4,365,454 to DAVIS suffers from the deficiencies with regard to Applicant's device, being the absence of a grasping tension method and transparency, along with the inability for virtually any planar item to be used since DAVIS's device depends on a co-operative, entire co-active system of male and female parts engineered to be used in conjunction with one another.

U.S. Patent No. 6,018,846 to ROYER suffers from the deficiencies with regard to Applicant's device, being the absence of the capacity for providing the simultaneous viewability of a plurality of held items and the absence of any transparency in the covering.

U.S. Patent No. 5,494,178 to MAHARG suffers from the deficiencies with regard to Applicant's device, being the inability to function whatsoever without stabilizing "poles" as part of an overall system and to which the connector pieces attach—connector pieces which lack transparency and also lack an integral tension element which is created by an additional element, that being screw clamps.

U.S. Patent No. 6,718,709 to KOUTRAS suffers from the deficiencies with regard to Applicant's device, being the absence of transparency as well as an interior tension aspect as part of an overall system.

Applicant contends that the absence of transparency alone, puts this subject U.S. Patent Application in a condition which merits patent protection; however, as has been described in the previous paragraphs, each of the relevant prior art patents suffers from at least one further deficiency. Applicant urges the Examiner to adopt the position that transparency is not an “obvious” structural element to one skilled in the art for at least the following primary reasons:

1) prior art devices have no motive for the use of clear/translucent/transparent elements—thus, there would be no benefit conferred by use of elements with such a property, and therefore, no disposition or even conception towards its use, whereas, by contrast, the use of clear/translucent/transparent element(s) is extremely important to Applicant’s device;

2) clear/translucent/transparent materials typically are both:

a) more expensive to use; and

b) less structurally strong than other, non-translucent materials.

Hence, use of transparency in the devices disclosed in prior art would not be “obvious”, let alone even contemplated, as there would be no benefit to such incorporation.

### MAHARG

U.S. Patent No. 5,494,198 to MAHARG, included in the April 11, 2007 Office Action but not referenced in the Office Action itself, discloses a device specifically designed for holding together a group of panels integrally using (First and Third Independent Claims 1 and 3) at least “two longitudinally extending members” without which the structure would not function as it is intended. Moreover, MAHARG’s Second Independent Claim discloses “screw clamping means” which, by its very nature, suggests an additional element, that being a screw which is absent in Applicant’s device. Thus, the two dramatically different, above-referenced, structural forms which are radically distinct from the device of Applicant’s disclosure are—alone—sufficient to traverse any objections to Applicant’s claims that MAHARG might possibly raise.

In fact, although U.S. Patent No. 6,718,709 to KOUTRAS is also not really relevant to this prosecution, nevertheless, KOUTRAS could be considered more relevant than MAHARG. Even the structure and claims of KOUTRAS, however, do not anticipate, teach or suggest all the claims of Applicant's device. The reason for this is that although the device of KOUTRAS is, seemingly, geared towards display, KOUTRAS intends the structure to be for large display panels which would be positioned on the floor, and therefore, takes advantage of the existence of gravity to maintain the display panels in proximate relation to one another. This is to say, KOUTRAS is lacking, as it has no need at all for a tension/gripping structural aspect existing in both FUSILLO and BURKHARD. This will be addressed later in this Response.

For at least the above-presented reasons, Applicant maintains that MAHARG does not describe, teach, or suggest each and every element of Applicant's claims, and these claims are patentable over MAHARG under 35 U.S.C. § 102(b). Grounds for claims rejection based on MAHARG are respectfully traversed.

#### FUSILLO

U.S. Patent 5,473,796 to FUSILLO, included in the April 11, 2007 Office Action and cited therein, discloses a device specifically for closing/sealing the end of a rolled, plastic produce bag. Indeed, while "FIGS. 4-5" of FUSILLO do, on first glance, appear to bear some relevance to Applicant's device of this subject application, upon more than a cursory inspection, however, it becomes readily evident that neither FUSILLO's specification, nor claims anticipate, teach or even suggest the complete device of this subject application.

The primary and significant distinction between Applicant's device and that of FUSILLO is that FUSILLO, as is obvious in both its claims and drawings, does not disclose, anticipate, teach or even suggest even one, let alone multiple "guide walls" of the type present in ROYER which allow for a perfectly aligned display. Such an equaled alignment is impossible to achieve through FUSILLO's

structure. These “guide walls” are the “crux”—meaning one of the most important elements—of Applicant’s device. The essential reason for the absence of any hint of “guidewalls” in relation to the device of FUSILLO’s disclosure is that the object of FUSILLO never even remotely contemplates the application of the device of that disclosure towards display. Moreover, even if FUSILLO were to be used for display, flexible bags have no rigid surfaces which would permit their uniform, parallel display in relation to each other, hence, the absolute lack of any need for a “guide walls”.

If the prior art structure is capable of performing the intended use, then it meets the claim. (37 CFR § 1.111) While it is true that FUSILLO’s device could, indeed, conceivably be employed to hold photographs or traditional trading cards in the same fashion that sterilized, traditional clothespins could be used instead of surgical clamps during medical operations, using a bag-tying device of FUSILLO’s disclosure in an attempt hold photographs or trading cards would still allow for the disadvantages that Applicant’s device overcomes, including: 1) the obstruction of part of the view of held item, and 2) inability to easily and certainly assure the aesthetic “lining up” of the held items one to another in perfect parallel formation in an aesthetically pleasing manner—a “lining up” which can only be accomplished with “guidewalls”. FIG. 6 of FUSILLO does disclose sections, but those sections are not divided. The only purpose for those sections is as a means to secure the end of a rolled plastic bag to contribute to the prevention of a held bag’s inadvertent opening at a time that is not specifically desired by a bag user/owner. Again, FUSILLO does not teach, allude to, suggest, anticipate or—most importantly—claim “guidewalls” as, its intended purpose does not require such “guidewalls”.

Neither in any manner in its disclosure, nor in its claims does FUSILLO suggest a structure which capable of performing as the device of Applicant’s disclosure can. The reasons for this are twofold: 1) FUSILLO does not teach or suggest any mechanism or means for ensuring the uniform, aesthetically pleasing “lining up” of items, such as, for example, photographs (items that it was not intended to have inserted into any potential structure according to its claims); and 2) there is no means to ensure the aesthetically pleasing “lack of distraction” that a translucent covering element confers and



which, because FUSILLO was not intended to be used for displaying items, would decidedly not be or have been obvious to either FUSILLO or someone skilled in the field of art of FUSILLO, as there would be no benefit whatsoever to incorporating a translucent element into his structure.

Neither of the following dependent claims: “6. The bag closure device of claim 1, wherein said opposing jaws extend laterally from the opposite ends of said central body. 7. The bag closure device of claim 1 wherein said opposing jaws extend longitudinally from the opposite ends of said central body.” which teach and limit the scope of the claims of FUSILLO’s device in any way references, teaches, alludes to, conceives of or describes at least two essential elements of Applicant’s device, those being: guidewalls/guide sections and transparency. The claims of Applicant’s device read: “at least four substantially strait and smooth edges...at right angles to each other, situated at 90 degree intervals in perpendicular relation to each other...” While it is true that some aspects of FUSILLO’s claims conjure-up the image of some aspects of Applicant’s device, the guidewalls which can be found, for instance, in KOUTRAS’ ‘709 U.S. Patent are conspicuously absent from FUSILLO.

FUSILLO’s claims and, indeed, FUSILLO’s Specification, as well, disclose: “{Claim} 10. ...gripping teeth placed within each set of opposing jaws for gripping a rolled plastic bag”. Such a concept is different from and disadvantageous to Applicant’s disclosure which specifically does not disclose the use of a set of two “jaws” since, in a preferred embodiment, one grouping of “jaws” on the translucent “cover” side of Applicant’s device would in all likelihood somewhat obscure the item to be held for display purposes—a distinct disadvantage which the device of Applicant’s disclosure endeavors to overcome. FUSILLO’s disclosed “interior surface adjacent to teeth 38 of respective jaw member 12” does not mean substantially straight and smooth edges” which Applicant’s device requires in order for a display item to be positioned in an optimal aesthetically pleasing fashion. In fact, the incorporation of such guide walls in a device of FUSILLO’s disclosure would, in fact, be entirely contrary to what FUSILLO’s device would desire as such guide walls would at least hinder if not entirely thwart even the most basic use, let alone the optimal use of a device of FUSILLO’s disclosure! The

reason for this is that the purpose of FUSILLO's device is to grasp the "handle(s)" of a plastic bag, which have substantially different properties than a flat, paper-like item.

Applicant maintains that the device of this application is a unique, never before contemplated device which claims the unusual and uncommon separate elements of the gripping aspect of FUSILLO, although not in the same manner as FUSILLO, and the alignment for display purposes disclosed in KOUTRAS. Along with this, Applicant's device also claims the transparency element which is not suggested anywhere in KOUTRAS or FUSILLO.

Furthermore, FUSILLO's First Independent Claim specifically designates, "(h) ...whereby a rolled plastic produce bag is pulled into each jaw." Applicant's device makes no such specification in relation to its claims, and, therefore, are in yet another fashion distinguishable from those claims of FUSILLO.

For at least the above-presented reasons, Applicant maintains that FUSILLO does not describe, teach, or suggest each and every element of the claims which are patentable over FUSILLO under 35 U.S.C. § 102(b). Grounds for claims rejection based on FUSILLO are respectfully traversed.

#### DAVIS

While the construction system of U.S. Patent No. 4,365,454 to DAVIS seems to be potentially useful for display purposes, this is the extent to which any similarity between the physical structure of this device and that of Applicant's disclosure may be made. The essential reason for this is that DAVIS' device requires the inter-related "interaction" between male and female ends which are specifically designed to interrelate. The device of the disclosure of Applicant requires no such pre-determined interrelationship. This is to say, that most any flat paper/card/cardboard/plastic/etc. type item may be used with the device and does not require any special, specific pre-determined dimensions in order for use to be possible. This is a dramatic departure from DAVIS which, by the nature of its very title, "SYSTEM"

suggests the inter-related and inter-dependent nature of the “male” and “female” elements of its disclosure.

The system of DAVIS is entirely dependent upon pre-designed, elements which are specifically engineered to be used together solely with each other. This is to say, unless a “male” support structure from DAVIS’s system capable of precisely fitting “snugly” into one of the “female” “recesses”, was paired together with such a recess, DAVIS’s system would not work. DAVIS’s system seems to offer elements which, if any do bear any resemblance to those of Applicant’s device, then those similarities may only be described as to some small degree “the reverse” of those of Applicant’s device. Since DAVIS’s claims refer to connecting members having “hinges” and “main body and the member being formed from a material consisting of two sheets of paper between which is sandwiched a layer of foamed plastic”, it is obvious to one skilled in the art that the claims as set forth by DAVIS are not the same as those of Applicant and, moreover, would not encompass Applicant’s disclosure.

For at least the above-presented reasons, Applicant maintains that FUSILLO does not describe, teach, or suggest each and every element of the Newly Amended Claims, and these claims are patentable over FUSILLO under 35 U.S.C. § 102(b). Grounds for claims rejection based on DAVIS are respectfully traversed.

#### IN THE SPECIFICATION

The claims presented herein recite features contained within the Specification and/or Drawings of the original patent application and, therefore, these claims do not present any “new matter”. The original Drawings initially submitted with this pending application at the time of filing, along with the Description of those drawings, disclose all aspects over which claims protection is sought and which are readily understandable to one skilled in the art.

The Brief Description of the Drawings section of the application indicates “gripping areas”, a “tack hole”, “re-positionably sticky areas”, a “magnet” for affixing to a refrigerator and thus, claims



referencing these items are allowable. The nature of the Description of the Preferred Embodiment is just that: a “preferred embodiment” not the exclusive embodiment. Thus, merely because an element of a disclosed device is not referenced in the Preferred Embodiment Section does not preclude patent protection.

Moreover, nowhere in Applicant’s device of this disclosure does the limitation exist requiring that there must be at least four guide edges or that the guide edges be absolutely at 90-degree angles. For example, Original Fig. 63 discloses a holding device embodiment having only three guide edges/walls. Attached please find Attachment “A” which is a Drawing disclosing an embodiment which is not new matter, yet for which entry into this application is not sought, but which is merely provided to illustrate yet another embodiment having only three guide walls.

Applicant maintains that, in fact, even one bisecting guide wall defining two cavities, as displayed in Original Fig. 62 merits protection. If Amendment to the Specification is required in order to cover matter sought to be included in the Claims, Applicant respectfully requests guidance from the Examiner and the opportunity to amend the Specification.

#### IN THE CLAIMS

Claim 46 A structural interconnection device for joining display elements comprising:

- a first substantially planar member having a back side and a front side;

- a second substantially planar member having a back side and a front side configured with a gradient of a pre-determined angle sloping with the lower edge of the gradient located at the outer perimeter of the member;

- means for joining the back side of said first substantially planar member with the front side of said second substantially planar member at the highest point of said gradient, thereby defining an opening therebetween for accommodating the insertion and retention of at least one display element;

Claim 47 A structural interconnection device for joining display elements comprising:

- a first substantially planar member having a back side and a front side;

- a second substantially planar member having a back side and a front side configured with a gradient of a pre-determined angle sloping with the lower edge of the gradient located at the outer perimeter of the member;

- means for joining the back side of said first substantially planar member with the front side of said second substantially planar member, thereby defining an opening therebetween for accommodating the insertion and retention of a display element;

- a central hub;

- axially emanating from said central hub, at least three smooth, raised sections of pre-determined height and width which define interior sections within the opening formed between said joined first and second substantially planar members thereby serving as guides for the insertion of at least one display element;

Claim 48 The device of Claim XX, wherein:

- first substantially planar member is translucent;

- said smooth raised sections are spaced apart at equal angles.

Claim 49 A structural interconnection device for joining display elements comprising:

- a first substantially planar member having a back side and a front side;

- a second substantially planar member having first and second sides each side being configured with a gradient of a pre-determined angle sloping with the lower edge of the gradient located at the outer perimeter of the member;

a third substantially planar member having a back side and a front side;

means for joining the back side of said first substantially planar member with the first side of said second substantially planar member, thereby defining an opening therebetween for accommodating the insertion and retention of a display element, and the joining of the back side of said third substantially planar member with the second side of said second substantially planar member thereby defining an opening therebetween for accommodating the insertion and retention of a display element;

a central hub;

serving as guides for the insertion of at least one display element, at least three smooth, raised sections of pre-determined height and width located on each side of said second substantially planar member, axially emanating from said central hub, thereby defining interior sections within the openings formed between said joined first and second, and said third and second substantially planar members.

Claim 50 The device of Claim XX, wherein:

said first substantially planar member is translucent;

said smooth raised sections are spaced apart at equal angles.

### **CONCLUSION**

In view of the foregoing remarks, and for at least the reasons set forth herein by Applicant in this case, Applicant steadfastly maintains that patentable matter has been presented within the subject disclosure which is new, novel and unobvious, that no prior art structure currently exists to perform the function(s) that the device of Applicant's disclosure permits or describes, teaches, or suggests the novel combination of each and every element of the claims, and therefore, the claims herein are patentable over all prior art under 35 U.S. C. Section 102(b). Accordingly, Applicant respectfully requests the entry of the amendments contained herein, and contends that this application should now be in condition for allowance. A notice to this effect is respectfully requested. In the even that the Examiner disagrees,

Applicant hopes that the Examiner will work with Applicant to define acceptable scope of patent protection.

Because the reasons above are sufficient to warrant allowance for this patent application, Applicant has not explored, nor is there now presented, other possible supporting information in this RCE. Nonetheless, Applicant expressly reserves the right to present further supporting information in the future, if appropriate, in response to any subsequent Office Action. After considering these remarks, if the Examiner believes that a telephone conference with Applicant would be advantageous towards the disposition of this case in a manner favorable to Applicant, the Examiner is requested contact Applicant at the telephone number listed below. An early and favorable action is hereby requested.

Applicant respectfully requests a personal meeting with the Examiner, for whom Applicant has a high regard, and towards this goal, Applicant intends to contact the Examiner by telephone in the near future.

Respectfully submitted,

Date: August 13, 2007

By: 

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